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Paper No. 24

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OFFICE OF PETITIONS

In re Application of :
Steven MacWilliams :
Application No. 09/690,667 :
Filed: October 17, 2000 :
Attorney Docket No. 00725.0360-US-01 :

ON PETITION

This is a decision on the petition filed February 23, 2004, under 37 CFR 1.181 to withdraw the holding of abandonment or in the alternative, under 37 CFR 1.137(b), to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

Petitioner argues that the abandonment of the application should be withdrawn since applicant did not receive the outstanding Office action. While petitioner has provided a copy of the docket record showing the Office action was not received at Altera Law Group, petitioner also explains that the previous attorney of record (Schwegman) did, in fact, receive the correspondence and attempted to forward it to petitioner. Since Schwegman, received the Office action at the correspondence address of record, and petitioner failed to timely submit a new power of attorney/change of address, the failure to receive the Office action was not the fault of the USPTO. In view thereof, the application was properly held abandoned and a petition to withdraw the holding of abandonment is inappropriate.

Accordingly, the unintentional petition fee of \$1330 will be charged to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being forwarded to Technology Center 3700.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy